

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATURAL RESOURCES DEFENSE)
COUNCIL, 1152 15th Street, NW, Suite 300)
Washington, DC 20005)

Plaintiff,)

v.)

Civil Action No. 12-986

UNITED STATES OFFICE OF)
MANAGEMENT & BUDGET,)
725 17th Street, NW, Washington, DC 20503)

Defendant.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Plaintiff Natural Resources Defense Council (NRDC) asserts violations of the Freedom of Information Act (FOIA), 5 U.S.C. § 552, by defendant United States Office of Management and Budget (OMB), for failing to disclose responsive records concerning compliance with conflict of interest regulations by OMB and OMB staff.

2. This court has jurisdiction over this action and venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

3. NRDC is a national, not-for-profit environmental and public health membership organization with more than 350,000 members nationwide.

4. Defendant OMB is a federal agency within the meaning of FOIA, 5 U.S.C. § 551(1), and has possession or control of the records that NRDC seeks in this action.

5. NRDC submitted a FOIA request to OMB on March 7, 2012 by fax and email. NRDC's request seeks records concerning OMB's and OMB staff's compliance with conflict of

interest and recusal regulations. NRDC also requested a fee waiver on the grounds that disclosure of the requested information is in the public interest.

6. Pursuant to the deadline established in 5 U.S.C. § 552(a)(6)(A)(i), OMB was required to respond to NRDC's FOIA request on April 4, 2012. By letters dated March 8 and April 3, 2012, OMB advised NRDC that it would need an extension of "up to 10 working days" beyond the deadline, or until April 18, to process the FOIA request. OMB did not respond by April 18. In subsequent emails, OMB committed to respond to the request by June 8, which it failed to do, and then by June 14, which it again failed to do. To date, OMB has not provided NRDC with any response to its FOIA request. OMB also failed to respond to or make any determination on NRDC's fee waiver request.

7. NRDC is entitled under FOIA to a waiver of OMB's search and production fees with respect to this request. NRDC has a demonstrated ability and intent to analyze and convey the information in the requested records to a broad public audience. Disclosure of the requested records will contribute significantly to public understanding of government activities and operations. NRDC is a non-profit organization with no commercial interest in the requested records.

8. NRDC seeks a declaration that OMB has violated FOIA by refusing to disclose responsive records and an injunction ordering OMB to provide those records. NRDC also seeks a declaration that NRDC is entitled to a fee waiver from OMB in connection with its FOIA request.

9. NRDC brings this action on its own behalf and on behalf of its members. NRDC and its members have been and continue to be injured by OMB's failure to provide responsive

records and failure to grant a fee waiver for this FOIA request. The requested relief will redress these injuries.

CLAIM FOR RELIEF

10. NRDC has a statutory right under FOIA to the records that it seeks, at no cost, and there is no legal basis for OMB's failure to disclose all responsive records.

REQUEST FOR RELIEF

WHEREFORE, the plaintiff respectfully requests an Order:

- (1) Declaring that the defendant's failure to disclose the records requested by the plaintiff in a timely fashion is unlawful;
- (2) Declaring that plaintiff is entitled to a waiver of search and production fees with respect to its request;
- (3) Directing the defendant to disclose the requested records to the plaintiff promptly and at no cost;
- (4) Awarding the plaintiff its costs and attorneys' fees; and
- (5) Granting such other and further relief as the Court deems just and proper.

Dated: June 18, 2012

Respectfully submitted,

/s/ Aaron Colangelo
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